

ASSEMBLY BILL

No. 1727

Introduced by Assembly Member Aghazarian

February 22, 2005

An act to amend 13201, 13220, 13223, and 13388 of, and to add Sections 186.5 and 13209 to, the Water Code, relating to water quality control agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 1727, as introduced, Aghazarian. State Water Resources Control Board and California regional water quality control boards.

Under existing law, the State Water Resources Control Board and the California regional water quality control boards, under the direction of the state board, administer the Porter-Cologne Water Quality Control Act. The act requires each regional board to select a chairperson from its members and to appoint an executive officer. The act authorizes a regional board to delegate its authority to issue, modify, or revoke waste discharge requirements to the executive officer.

This bill, instead, would require the state board to appoint an executive director and, for each of the regional boards, an executive officer, all of whom would be exempt from civil service. The bill would require each executive officer to report to the executive director of the state board. The bill would require each regional board to delegate the issuance, modification, and revocation of waste discharge requirements to its executive officer and would require appeals to these decisions made by that executive officer to be made to the executive director.

The bill would reduce the number of members on a regional board from 9 to 7 members, but would not affect the term of a member who

serves on a regional board on January 1, 2006. The bill would revise certain eligibility requirements for membership on a regional board. The bill would require the Governor to designate the chairperson of each regional board from the membership of that regional board, who would serve at the pleasure of the Governor. The bill would require each regional board to select one of its members to serve as vice chairperson.

The bill would revise a provision that establishes an income-related eligibility requirement that applies to a member of the state board or a regional board to include a person who serves as an executive officer, but would make that provision inoperative upon the receipt of a specified written determination by the Secretary of State.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 186.5 is added to the Water Code, to
2 read:

3 186.5. (a) The board shall appoint an executive director who
4 is exempt from civil service under Section 4 of Article VII of the
5 California Constitution. The executive director shall receive an
6 annual salary as provided in Chapter 6 (commencing with
7 Section 11550) of Part 1 of Division 3 of Title 2 of the
8 Government Code.

9 (b) The board shall appoint and determine the salary of an
10 executive officer, who is exempt from civil service under Section
11 4 of Article VII of the California Constitution, for each of the
12 regional boards. For the purposes of determining the salary of
13 these executive officers, the board shall be guided by the
14 principles set forth in Sections 19826 and 19829 of the
15 Government Code. The executive officers shall report to the
16 executive director.

17 SEC. 2. Section 13201 of the Water Code is amended to read:

18 13201. (a) There is a regional board for each of the regions
19 described in Section 13200. Each board shall consist of the
20 following ~~nine~~ seven members appointed by the Governor, each
21 of whom shall represent and act on behalf of all the people and
22 shall reside or have a principal place of business within the
23 region:

1 (1) One person associated with water supply, conservation,
2 and production.

3 (2) One person associated with irrigated agriculture.

4 (3) One person associated with industrial water use *or*
5 *discharge who is not associated with a governmental entity.*

6 (4) One person associated with municipal government. Upon
7 the next vacancy occurring in this office on or after January 1,
8 2004, this person shall be a city council member or mayor.

9 (5) One person associated with county government. Upon the
10 next vacancy occurring in this office on or after January 1, 2004,
11 this person shall be a county supervisor.

12 (6) One person from a responsible nongovernmental
13 organization associated with recreation, fish, or wildlife.

14 (7) ~~Three persons~~ *One person from the public, not specifically*
15 *associated with any of the foregoing categories, two of whom*
16 *shall have who has special competence in areas related to water*
17 *quality problems.*

18 (b) All persons appointed to a regional board shall be subject
19 to Senate confirmation, but shall not be required to appear before
20 any committee of the Senate for purposes of such confirmation
21 unless specifically requested to appear by the Senate Committee
22 on Rules.

23 (c) Insofar as practicable, appointments shall be made in such
24 manner as to result in representation on the board from all parts
25 of the region.

26 (d) Notwithstanding subdivision (a), if appointments cannot be
27 made pursuant to paragraph (5) of subdivision (a) because of the
28 requirements of Section 13388, those appointments may be made
29 of persons not specifically associated with any category.

30 (e) *(1) Notwithstanding paragraph (7) of subdivision (a), a*
31 *person who serves on a regional board on January 1, 2006, and*
32 *was appointed pursuant to that paragraph as that paragraph*
33 *read on December 31, 2005, shall serve until the expiration of*
34 *his or her term.*

35 (2) *The amendments made to this section during the first year*
36 *of the 2005-06 Regular Session of the Legislature do not affect*
37 *the term of office held by any regional board member.*

38 SEC. 3. Section 13209 is added to the Water Code, to read:

39 13209. The Governor shall designate the chairperson of each
40 regional board from the membership of that regional board. The

1 person so designated shall serve as the chairperson at the
2 pleasure of the Governor. Each regional board shall select a vice
3 chairperson in accordance with Section 13220.

4 SEC. 4. Section 13220 of the Water Code is amended to read:

5 13220. Each regional board shall do all of the following:

6 (a) Establish an office.

7 (b) Select one of its members as ~~chairman~~ *vice chairperson* at
8 the first regular meeting held each year.

9 ~~(c) Appoint as its confidential employee, exempt from civil~~
10 ~~service under Section 4 of Article VII of the California~~
11 ~~Constitution, and fix the salary of, an executive officer who shall~~
12 ~~meet technical qualifications as defined by the State Water~~
13 ~~Resources Control Board. The executive officer shall serve at the~~
14 ~~pleasure of the regional board.~~

15 ~~(d) Employ any other assistants which may be determined~~
16 ~~necessary to assist the executive officer.~~

17 SEC. 5. Section 13223 of the Water Code is amended to read:

18 13223. (a) Each regional board may delegate any of its
19 powers and duties vested in it by this division to its executive
20 officer excepting only the following: (1) the promulgation of any
21 regulation; (2) the issuance, modification, or revocation of any
22 water quality control plan, water quality objectives, ~~or waste~~
23 ~~discharge requirement~~; (3) the issuance, modification, or
24 revocation of any cease and desist order; (4) the holding of any
25 hearing on water quality control plans; and (5) the application to
26 the Attorney General for judicial enforcement but excluding
27 cases of specific delegation in a cease and desist order and
28 excluding the cases described in subdivision (c) of Section 13002
29 and Sections 13304 and 13340.

30 (b) *Each regional board shall delegate the issuance,*
31 *modification, and revocation of waste discharge requirements to*
32 *its executive officer.*

33 (c) Whenever any reference is made in this division to any
34 action that may be taken by a regional board, ~~such~~ *the* reference
35 includes ~~such~~ action by its executive officer pursuant to powers
36 and duties delegated to him *or her* by the regional board.

37 (d) *Any appeals to decisions made by an executive officer*
38 *pursuant to subdivision (b) shall be made to the executive*
39 *director of the state board.*

40 SEC. 6. Section 13388 of the Water Code is amended to read:

1 13388. (a) Notwithstanding any other provision of this
2 division or Section 175, no person shall be a member of the state
3 board or a regional board, *or serve as a regional board executive*
4 *officer*, if ~~he~~*the person* receives or has received during the
5 previous two years a significant portion of his *or her* income
6 directly or indirectly from any person subject to waste discharge
7 requirements or applicants for waste discharge requirements
8 pursuant to this chapter. ~~This section shall become operative on~~
9 ~~March 1, 1973.~~

10 (b) *Subdivision (a) shall become inoperative on the date on*
11 *which the Secretary of State receives a written determination*
12 *from the state board that the Clean Water Act (33 U.S.C. Sec.*
13 *1251 et seq.) does not require the members of the state board or*
14 *a regional board, or a regional board executive officer, to be*
15 *subject to subdivision (a).*